

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:

EVIDENT TECHNOLOGIES, INC.,

Debtor.

Case No. 09-12515

Chapter 11

**APPLICATION FOR ORDER SHORTENING AND LIMITING NOTICE
OF HEARING ON DEBTOR'S PROPOSED SETTLEMENT WITH
LIFE TECHNOLOGIES CORPORATION f/k/a INVITROGEN CORPORATION**

Evident Technologies, Inc, by its attorneys, Hodgson Russ LLP, seeks an Order from this Court shortening and limiting notice of its Application under Bankruptcy Rule 9019 seeking approval to its settlement of claims with Life Technologies Corporation, formerly known as Invitrogen Corporation, alleges:

1. The Debtor has its confirmation hearing set for March 31, 2010.
2. Life Technologies Corporation ("LTC") commenced a pre-petition patent infringement suit against the Debtor seeking damages including profits made by the Debtor from the alleged infringement.
3. LTC has indicated that it will file an Objection to the Debtor's proposed Plan and seek to collect monies from the Debtor for post-petition revenue traceable to the alleged infringement.

4. Furthermore, even though the Debtor asserts that the claim of LTC, even if proven, would not exceed \$200,000.00, LTC indicates that it will challenge the amount of its claim and seek to recover most of the proposed distribution to creditors.

5. The Debtor and LTC have now signed a Settlement Agreement under which LTC waives all claims against the Debtor and agrees not to seek any distribution or dividend from the Debtor's estate in exchange for the Debtor's admitting infringement and validity of certain patents in the life science field of use, and upon the Debtor agreeing not to further infringe.

6. The Debtor has been advised that if this Settlement Agreement is approved by the Court on or before the confirmation hearing scheduled for March 31, 2010, that LTC will withdraw its Objection to confirmation other than incorporation of the settlement terms into the Plan.

7. Normally, a notice of settlement would require 28 days' notice, but the confirmation hearing is less than ten (10) days away. Further, the Debtor served approximately 206 packets of its confirmation package to creditors and parties in interest by mail. The Debtor submits that shortened and limited notice is appropriate here under these circumstances.

WHEREFORE, the Debtor seeks an Order from this Court authorizing it to serve notice of its Application upon Lemery Greisler LLC, Daniel J. Tyson, Esq. of Counsel, attorneys for Life Technologies Corporation, formerly known as Invitrogen Corporation; the Office of the United States Trustee, Kevin Purcell, Esq. of Counsel; and the Debtor's 20 largest unsecured creditors, all parties who have appeared by counsel at the addresses set forth in Notices of Appearance filed with the Court or as otherwise stated in correspondence to the Debtor's counsel or the United States Trustee, or as listed in the Debtor's petition; and to Ryan M. Simon, Esq., counsel for eBioscience, Inc. at the address set forth in his letter annexed as Exhibit "A" to the

Debtor's Application submitted herewith, by e-mail, facsimile transmission and/or overnight express delivery, provided such notice is given on or before 5:00 p.m. on March 25, 2010, and for whatever and further relief the Court deems just and proper.

DATED: March 24, 2010

HODGSON RUSS LLP
Attorneys for Debtor

By: 

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